IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL (LODGING) NO.423 OF 2005
IN
NOTICE OF MOTION NO.1696 OF 2004
IN
SUMMARY SUIT NO.1643 OF 2004

Om Prakash Upadhyay ....Appellant

V/s.

M/s.Shreeji Chemicals & Anr. ....Respondents

Mr.Birendra Saraf with Ms.Nita Solanki i/b Kiran Jain & Co. for the Appellant.

Mr.Sanjay Jain with Mr.Suresh Jain for the Respondents.

CORAM : A.P. SHAH AND
S.J. VAZIFDAR, JJ.
DATED : 3RD MAY, 2005.

P.C. :

1. By consent of the parties the Appeal is admitted and taken up for final hearing.

2. This is an Appeal against the order of the learned single Judge refusing ad-interim reliefs in the Notice of Motion filed by the Appellant for attachment before judgment.

3. The learned single Judge refused ad-interim

reliefs on the ground that the averments stated in the affidavit in reply are vague.

4. Mr.Jain, the learned counsel appearing on behalf of the Respondent submitted that the allegations in the affidavit in support of the Notice of Motion are false and that the Respondent has no intention at this stage of selling the premises. Nor has the Respondent has any intention of leaving the country permanently. Several submissions were also made in respect of the merits of the matter. As there was no real opposition to the order that we intend passing, we refrain from making any observations on merits in respect of the matter as well as the application for attachment before judgment, least the same would prejudice either of the parties. In the facts and circumstances of the present case, the ends of justice would be met with the following order :-

i). Pending the hearing and final disposal of the Summons for Judgment, the Respondent is restrained from disposing of, alienating, encumbering or creating any third party right, title and/or interest in respect of flat Nos.11 an 12, 71 Navneet, Goradia Nagar, Ghatkopar (East), Mumbai-400 077 as also

the share certificate in respect thereof.

ii). This injunction shall operate only for a period of four weeks after the decision on the Summons for Judgment irrespective of whether it is in favour of one party or other.

iii). Liberty to the Appellant to apply for ad-interim reliefs thereafter afresh before the learned single Judge.

. The Appeal is accordingly disposed of.